

E-FILED - 3/12/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DERRAN SMILEY,

No. C 08-0045 RMW (PR)

Petitioner,

ORDER REGARDING IN FORMA
PAUPERIS MOTION

v.

MIKE EVANS, Warden,

Respondent.

/ (Docket No.3)

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On January 4, 2008, the clerk of the court sent petitioner a notice directing him to pay the filing fee or to file a completed in forma pauperis (IFP) application. Petitioner filed an IFP application; however, petitioner did not include supporting documentation of the certificate of funds and prisoner trust account statement for the past six months.

The court cannot conduct an initial review of this matter until petitioner has either paid the filing fee or submitted a complete IFP application. See 28 U.S.C. § 1915(a) (a party is permitted to file a civil action in federal court without prepayment of fees or security if he makes affidavit that he is unable to pay such fees or give security therefor). If the petitioner is a prisoner who alleges that he is unable to pay the full filing fee at the time of filing, he must submit: (1) an affidavit that includes a statement of all assets he possesses, and (2) a certified copy of the trust fund account statement for the prisoner for the six-month period

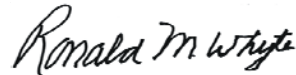
1 immediately preceding the filing of the action, obtained from the appropriate official of each
2 prison at which the prisoner is or was confined. See id. § 1915(a)(1), (2). If the court
3 determines that the petitioner is unable to pay the full filing fee at the time of filing, the
4 petitioner will be granted leave to proceed IFP.

5 Therefore, before the court will proceed to review the petition, petitioner is hereby
6 directed to submit copies of the certificate of funds and a prisoner trust account statement for
7 the preceding six months. He shall include with these documents a clear indication that it is
8 for the above-referenced case number, C 08-0045 RMW (PR). Petitioner shall do so within
9 **thirty (30) days** of the date of this order.

10 **Failure to submit copies of petitioner's certificate of funds and prisoner trust**
11 **account statement within the court's deadline shall result in the dismissal of this action**
12 **without prejudice.**

13 IT IS SO ORDERED.

14
15 DATED: 3/12/08



RONALD M. WHYTE
United States District Judge

United States District Court
For the Northern District of California

This is to certify that on 3/12/08, a copy of this ruling was mailed to the following:

Derran Smiley
F-28162
Salinas Valley State Prison
P.O. Box 1050
Soledad, CA 93960-1050

Order Regarding In Forma Pauperis Motion
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